

REMARKS

Favorable reconsideration is respectfully requested in view of the foregoing amendments and the following remarks.

Applicants sincerely thank the Examiner and her supervisor for holding a telephonic interview with Applicants' representative. The Examiner and her supervisor's kind remarks have been incorporated into this reply.

I. CLAIM STATUS & AMENDMENTS

Claims 1-8, 10 and 11 were pending in this application when last examined.

Claims 2-5, 10 and 11 were withdrawn as non-elected subject matter. Applicants reserve the right to file a continuation or divisional application on all non-elected subject matter.

Claims 1 and 6-8 were examined on the merits and stand rejected. These claims have been amended to clarify the claimed invention.

No new matter has been added.

II. ENABLEMENT REJECTION

In item 12 on pages 5-12 of the Office Action, claims 1 and 6-8 were rejected under 35 U.S.C. § 112, first paragraph, for the noted reasons.

It is noted that the Office contends that the specification lacked enablement for the diagnosis of any endometriosis-related disease. Without acquiescence to the correctness of this position, it is noted that the amended claims are now directed toward endometriosis and therefore this concern is overcome.

Further, it is noted that the Office contends that the specification was not enabled for treatment of endometriosis in any animal but humans. Without acquiescence to the correctness of this position and merely to expedite allowance, Applicants have herein amended the claims to recite "human". Therefore, this concern is overcome.

Finally, it is noted that the claims, as amended, are directed towards measuring histamine releasing factor from menstrual blood of a patient in order to indicate endometriosis or risk of endometriosis. It is noted that Figure A, submitted October 16, 2008, which has been attached to the Declaration originally submitted July 3, 2008, clearly shows that expression levels of HRF in

menstrual blood from endometriosis patients were statistically significant higher than HRF gene in menstrual blood of normal subjects. Thus, it was the Declarant's expert opinion and belief that the claimed invention was enabled for diagnosing endometriosis by measuring expression levels of HRF gene in menstrual blood. Applicants therefore suggest the claims, as amended, meet the enablement requirement of 35 U.S.C. § 112.

Thus, for the above-noted reasons, this rejection is untenable, as applied to the amended claims, and should be withdrawn.

CONCLUSION

In view of the foregoing amendments and remarks, that the present application is in condition for allowance and notice to that effect is hereby requested.

If the Examiner has any comments or proposals for expediting prosecution, please contact the undersigned at the telephone number below.

Respectfully submitted,

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